

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

**CRYSTAL S. SOLOMON,**

*Plaintiffs,*

**V.**

**FREEDOM MORTGAGE  
CORPORATION,**

***Defendants.***

§§ 87(2)(b), 87(4-b), 87(4-g), 87(4-h)

**CIVIL ACTION NO. 5:22-cv-17**

## **AMENDED NOTICE OF REMOVAL**

Defendant Freedom Mortgage Corp., (“Defendant”) files this Amended Notice of Removal<sup>1</sup> pursuant to diversity jurisdiction under 28 U.S.C. §§ 1331 and 1332.

## I. INTRODUCTION

1. On December 29, 2021, Plaintiff Crystal S. Solomon (“Plaintiff”) filed her Original Petition (“Petition”) in the 438th Judicial District Court of Bexar County, Texas under Cause No. 2021CI26319 (the “State Court”).<sup>2</sup>

2. In the Petition, Plaintiff asserts claims against Defendant for violation of Federal CARES Act Foreclosure Moratorium (15 USC §9056(b)) stemming from the servicing of the mortgage encumbering the real property located at 11326 Fine Design, San Antonio, Texas 78245 (the “Property”). Plaintiff also seeks declaratory judgment, application for restraining order, and injunctive relief preventing sale of the Property.

<sup>1</sup> Exhibit B to the Original Notice of Removal was incorrect. The correct Exhibit B is attached hereto.

<sup>2</sup> **Exhibit A.**

3. Pursuant to 28 U.S.C. § 1446(a), copies of process, pleadings, orders, and other papers filed in the state court action and obtained by Defendant are attached hereto and marked as **Exhibit A**.<sup>3</sup>

## **II. TIMELINESS OF REMOVAL**

4. This suit was filed on December 29, 2021. Defendant has not been served with process. Therefore, this removal is timely.

## **III. BASIS FOR REMOVAL: DIVERSITY JURISDICTION**

5. This Court has original jurisdiction over this lawsuit pursuant to 28 U.S.C. § 1332 (diversity jurisdiction). The requirements for diversity jurisdiction are met in this case, as Plaintiff and Defendant are completely diverse in citizenship and the amount in controversy, exclusive of interests and costs, exceeds \$75,000.00.

### ***A. Complete Diversity Exists.***

6. Plaintiff is citizens of Texas, residing in Bexar County, Texas.<sup>4</sup>

7. Freedom is incorporated in New Jersey with its principal place of business in New Jersey. A corporation is a citizen of the state where it is incorporated and the state where it has its principal place of business.<sup>5</sup> Accordingly, Freedom is a citizen of New Jersey for purposes of diversity jurisdiction.

8. Because Plaintiff is a citizen of Texas and the only properly served defendant, Freedom, is a citizen of New Jersey, complete diversity of the Parties exists.

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<sup>3</sup> Please note that a request has been submitted to the State Court to for copies of the Temporary Order entered on 12/30/2021 and notice of the hearing set for 01/13/2022. This Notice of Removal will be supplemented as soon as these documents are received and copies of such will be provided to this Court.

<sup>4</sup> See **Exhibit A**, Pet. at ¶ 2.

<sup>5</sup> *Harvey v. Grey Wolf Drilling Co.*, 542 F.3d 1077, 1080 (5th Cir. 2008).

**B. The Amount in Controversy Exceeds \$75,000.00.**

9. In the Original Petition, Plaintiff seeks injunctive relief to enjoin Defendant from taking any action to foreclose the Property.<sup>6</sup> When such relief is sought, the amount in controversy is measured by the value of the object of the litigation.<sup>7</sup> When the object of the mortgagors' litigation is the protection of their entire property, the fair market value of the property is the proper measure of the amount in controversy.<sup>8</sup> Here, the value of the Property is at least \$218,800.<sup>9</sup> Therefore, based on the amount of monetary damages Plaintiff seeks and the value of the injunctive relief sought, the amount in controversy exceeds \$75,000.00 and removal is proper.

**IV.  
BASIS FOR REMOVAL: FEDERAL QUESTION JURISDICTION**

10. Alternatively, removal is proper because this case is a civil action involving a federal question. Plaintiff brings a claim for violations of the CARES Act, 15 U.S.C. 9056, over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331.<sup>10</sup>

**V.  
VENUE**

11. Venue is proper in the Western District of Texas, San Antonio Division pursuant to 28 U.S.C. § 1441(a) because Bexar County, Texas is located within this District and cases arising from Bexar County, Texas are properly assigned to the Western District of Texas.<sup>11</sup>

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<sup>6</sup> See Petition at ¶¶ 44–47.

<sup>7</sup> *Farkas v. GMAC Mortg., LLC*, 737 F.3d 338, 341 (5th Cir. 2013).

<sup>8</sup> *Id.*

<sup>9</sup> See Bexar County Appraisal District Summary, attached as **Exhibit B**. It is appropriate for the Court to take judicial notice of the Bexar County Tax Appraisal because it is a public record and the information it provides is readily ascertainable and the source – the Bexar County Tax Appraisal District – cannot reasonably be questioned. See *Funk v. Stryker Corp.*, 631 F.3d 777, 783 (5th Cir. 2011).

<sup>10</sup> See Original Petition at ¶ 36-41. See also *Koy-Ghadoush v. Andreiu*, 2021 WL 3125515, at \*1 (C.D. Cal. Apr. 28, 2021).

<sup>11</sup> 28 U.S.C. § 124(a)(1).

**VI.**  
**ADDITIONAL REQUIREMENTS**

12. Plaintiff has not demanded a jury trial in her Petition.

13. Written Amended Notice of Removal will be provided to Plaintiff and filed with the District Clerk of Bexar County, Texas contemporaneously with this pleading.

Having satisfied the requirements for removal under 28 U.S.C. §§ 1441 and 1332, Freedom Mortgage Corporation. gives notice that Cause No. 2021CI26319, now pending in the 438th Judicial District Court of Bexar County, Texas, has been removed to this Court.

Respectfully submitted,

**Bradley**

By: /s/ S. David Smith

**S. DAVID SMITH**

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**CERTIFICATE OF SERVICE**

I certify that on this 10<sup>th</sup> day of January, 2022, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system. I further certify that a true and correct copy of the foregoing has been served on all counsel of record as follows:

***Via CMRRR# 9314 8699 0430 0090 5347 00***

***& E-mail: jgm@minervelaw.com***

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***Attorney for Plaintiff***

*/s/ S. David Smith*

S. David Smith